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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE**

CRIMINAL WRIT PETITION NO.136 OF 2021

1. Shri Ashok Ottamchand Sutaria
2. Shri Ottamchand nandlal Sutaria
3. Shri Bharat Ottamchand Sutaria
4. Smt.Vibha Jatin Sutaria
5. Shri Harikrishna C. Mthani
6. Smt.Sunita Harikrishna Mithani

... Petitioners

Vs.

1. State of Maharashtra
2. Smt.Manisha Dipal Desai

... Respondents

Mrs.Anushka A. Shreshtha for the Petitioners

Ms.A.S. Pai, APP, for Respondent – State

**CORAM: S.S. SHINDE &
MANISH PITALE, JJ.**

**JUDGMENT RESERVED ON: FEBRUARY 5, 2021
JUDGMENT DELIVERED ON: FEBRUARY 08, 2021**

JUDGMENT (PER S.S. SHINDE, J.):

1. Rule. Rule made returnable forthwith with the consent of the parties and heard finally.
2. This petition is filed for the following substantive prayer clause:

“a) That this Hon'ble Court be pleased to quash and set aside the FIR No.190 of 2013, registered by Pant Nagar Police Station Mumbai, under section 498(A), 406, 114, 504, 34 of Indian Penal Code dated 08.05.2013 and criminal case bearing C.C. no.226/PW/2014, pending before Ld.73rd Metropolitan Magistrate's Court at Vikhroli, Mumbai and further be pleased to discharge the Petitioners from Criminal Case bearing No.226/PW/2014 pending before Id. 73rd Metropolitan Magistrate's Court at Vikhroli, Mumbai, under section 498(A), 406, 114, 504, 34 of Indian Penal Code.”

3. Heard the learned Counsel appearing for the petitioners and the learned APP appearing for the Respondent – State.

4. Respondent No.2 i.e., complainant, has filed an affidavit on 22nd January, 2021. The relevant portion of the said affidavit is as under:

“1. ...

2. I say that as the Petitioner No.1 and I have entered into a compromise/settlement between ourselves upon the intervention of the family friends, relatives and well-wishers of both of us, we have filed consent terms before the Ld.Family Court of Bandra, Mumbai in Petition No.B-55 of 2019 filed by the Petitioner No.1 for declaration of status of Petitioner No.1 and we have agreed to go for compromise decree as per the terms and conditions filed in Petition No.B-55 of 2019 on 5-11-2020.

3. I say that in view of settlement arrived between me and the Petitioner No.1, I do not want to proceed with the FIR C.R. No.190 of 2013 dated 08-05-2013, registered at Pantnagar Police station, Mumbai, for offence under Sections 498(A), 406, 114, 506, 34 of the Indian Penal Code.

4. I say that I have already received sum of Rs.21,91,000/- from the Petitioner No.1 and in addition the Petitioner No.1 will hand over the Demand Draft bearing No.158652 dated 4-11-2020, for sum of Rs.15,00,000/- drwn on State Bank of india, Ghatkopar (west) branch, to me on the day of decree before Id. Family Court at Bandra, Mumbai. Apart from the aforesaid total sum of Rs.36,91,000/-, I have no claim of whatsoever nature.

5. I say that I have “No Objection” to quash the FIR No.190 of 2013 dated 08-05-2013 registered at pantnagar Police Station, Mumbai, for offence under Sections 498(A), 406, 114, 504, 34 of the Indian Penal Code and Criminal Case bearing C.C. No.226/PW/2014 pending before Ld.73 Metropolitan Magistrate’s Court at Vikhroli, Mumbai.

6. ...
7.”

5. We have carefully perused the averments in the affidavit filed by Respondent No. 2, which are reproduced hereinabove. We have interacted with Respondent No.2, through video conferencing. She has stated that she has no objection to quash the F.I.R. in question as the parties have arrived at an amicable settlement of the dispute that arose out of matrimonial discord.

6. The Supreme Court in the case of **Giansingh v. State of Punjab and Another**¹ has held that the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the

1 2012 (10) SCC 303

offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. It is further held that as inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

7. In the present case also, it is clear from the averments made in the affidavit of Respondent No.2 and the interaction we had with Respondent No.2 that she is not going to support the case of the prosecution and the possibility of conviction is remote and bleak.

In that view of the matter, continuation of the criminal proceedings on the basis of the FIR in question would be an exercise in futility and it would be an abuse of process of Court.

8. Hence, we allow this petition in terms of prayer clause (a), which is reproduced hereinabove. Rule made absolute accordingly.

9. Writ Petition stands disposed of.

10. The parties to act on an authenticated copy of this order.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)